

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

CLARENCE DANIELS, JR.,

Plaintiff,

vs.

NOVANT HEALTH, INC., *et al.*,

Defendants.

Case No. 22-cv-295-DKW-WRP

**ORDER DIRECTING SERVICE OF  
THE FIRST AMENDED  
COMPLAINT<sup>1</sup>**

On August 11, 2022, Plaintiff Clarence Daniels, Jr., proceeding *pro se* and *in forma pauperis*, filed a First Amended Complaint (FAC) against sixteen Defendants, alleging violations of 18 U.S.C. § 1964 and the First, Eighth, and Fourteenth Amendments of the U.S. Constitution, pursuant to 42 U.S.C. § 1983. Dkt. No. 7. The Court hereby DIRECTS SERVICE of the FAC and summons.<sup>2</sup> *See* Fed. R. Civ. P. 4(c)(3).

To facilitate service, the Court ORDERS as follows:

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<sup>1</sup>The Court finds this matter suitable for disposition without a hearing. *See* LR 7.1(c).

<sup>2</sup>Each civil action commenced pursuant to 28 U.S.C. § 1915(a) is subject to mandatory screening, by which the Court may order the dismissal of any claims it finds “frivolous, malicious, failing to state a claim upon which relief may be granted, or seeking monetary relief from a defendant immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). Daniels’ original Complaint, Dkt. No. 1, was dismissed pursuant to this screening process for lack of venue. *See* Dkt. No. 6 (Order granting *in forma pauperis* status). At this initial stage of proceedings, and without any responsive pleading from Defendant, the Court has screened the FAC and finds service of the same to be appropriate.

1. For each of the sixteen (16) Defendants, the Clerk's Office is directed to send to Plaintiff: one copy of the FAC, Dkt. No. 7; one summons; one USM-285 form; one Notice of Lawsuit and Request for Waiver of Service of Summons form (AO 398); two (2) Waiver of Service of Summons forms (AO 399); an instruction sheet; and a copy of this Order. The Clerk shall also send a copy of this Order to the U.S. Marshal.
2. For each of the sixteen (16) Defendants, Plaintiff shall complete the forms as directed and submit the following documents to the U.S. Marshal in Honolulu, Hawai'i: a completed USM-285 form; a copy of the FAC; the summons; a completed Notice of Lawsuit and Request for Waiver of Service of Summons form (AO 398); and two (2) completed Waiver of Service of Summons forms (AO 399). Plaintiff shall submit these documents within thirty (30) days of this Order's filing.
3. Upon receipt of these documents from Plaintiff, the U.S. Marshal shall mail to each Defendant: a copy of the FAC; a completed Notice of Lawsuit and Request for Waiver of Service form (AO 398); and two (2) completed Waiver of Service of Summons forms (AO 399), as directed by Plaintiff without payment of costs. *See* Fed. R. Civ. P. 4(c)(3).
4. The U.S. Marshal shall retain the summons and a copy of the FAC. For each Defendant, the U.S. Marshal shall also file a returned Waiver of Service of Summons form as well as any Waiver of Service of Summons form that is returned as undeliverable, as soon as it is received.
5. If any Defendant does not return a Waiver of Service of Summons form within sixty days from the date that such forms are mailed, the U.S. Marshal shall:
  - a. Personally serve such Defendant pursuant to Fed. R. Civ. P. 4 and 28 U.S.C. § 566(c).
  - b. Within ten days after personal service is effected, file the return of service for such Defendant, along with evidence of any attempts to secure a waiver of service of summons and of the


costs subsequently incurred in effecting service. Said costs shall be enumerated on the USM-285 form and shall include the costs incurred by the U.S. Marshal's office in photocopying additional copies of the summons and the FAC and for preparing new USM-285 forms, if required. Costs of service will be taxed against the personally served Defendant in accordance with the provisions of Fed. R. Civ. P. 4(d)(2).

6. If Daniels does not wish to use the U.S. Marshal for service, he may serve the Defendants on his own, in compliance with Fed. R. Civ. P. 4.
7. Daniels is cautioned that if he fails to comply with this Order and his non-compliance prevents timely and proper service as set forth in Fed. R. Civ. P. 4(m), this action is subject to dismissal for failure to serve.
8. After service of the summons and FAC, whether accomplished on his own or with the services of the U.S. Marshal, Daniels must serve on each Defendant or, if applicable, each Defendant's attorney, a copy of all further documents he submits to the Court. The U.S. Marshal is not responsible for serving these documents on Plaintiff's behalf. Daniels shall include, with any original paper filed with the Clerk of Court, a certificate stating the date that a copy of the document was served on each Defendant or Defendant's counsel, and the manner in which service was accomplished. Any paper received by a District or Magistrate Judge that has not been filed with the Clerk of Court or that does not include a certificate of service will be disregarded.
9. Daniels is further notified that he must comply with the Federal Rules of Civil Procedure and the Local Rules for the District of Hawai'i throughout all proceedings in this Court.

IT IS SO ORDERED.

DATED: September 20, 2022 at Honolulu, Hawai'i.



  
Derrick K. Watson  
United States District Judge